

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHARONDA ROBINSON, as Personal Representative
of the Estate of OMARION HARDY, deceased,

Plaintiff,

-vs-

Case: 2:07-cv-14999

Judge: Battani, Marianne O

Referral MJ: Morgan, Virginia M

Filed: 11-26-2007 At 08:58 AM

REM ROBINSON V YOUNG ET AL (RRH)

DR. LARRY YOUNG; DR. LARRY YOUNG, M.D., P.C.;
HURLEY MEDICAL CENTER; HAMILTON
COMMUNITY HEALTH NETWORK, INC.,
d/b/a HAMILTON FAMILY HEALTH CENTER;
DR. DAVID PYATT and DR. XIAOYING WU,
Jointly and Severally,

Defendants.

NOTICE OF REMOVAL

Defendants, Dr. Larry Young, Dr. Larry Young, M.D., P.C., ("Young"), Hamilton Community Health Network, Inc., d/b/a Hamilton Family Health Center ("Hamilton"), petitioners herein, by their attorneys, Stephen J. Murphy, III, United States Attorney for the Eastern District of Michigan, Southern Division, and Elizabeth J. Larin, Assistant United States Attorney, pursuant to 42 U.S.C. §233(c) and 28 U.S.C. §2679(d); hereby remove this action (Case No. 07-86525), which is now pending in the Genesee County Circuit Court from said circuit court to the United States District Court for the Eastern District of Michigan, Southern Division. This action is removable because defendants Young and Hamilton have been deemed eligible for coverage under the Federal Tort Claims Act (FTCA), 28 U.S.C. §1346(b), pursuant to the Federally Supported Health Centers Assistance Act of 1992 (Public Law 102-501), 42 U.S.C. §233(g)(1). Accordingly, defendant Young was an employee of Hamilton, which was an "entity"

within the meaning of 42 U.S.C. §233(g), and therefore Young and Hamilton are deemed to be employees of the U.S. Public Health Service covered by 42 U.S.C. §233(a) and (c). Therefore, pursuant to 42 U.S.C. §233(a) and (g), defendants Young and Hamilton have been deemed eligible for coverage under the FTCA. Under 42 U.S.C. §233(a) and (g), a claim against the United States under the Federal Tort Claims Act is the exclusive remedy available to the plaintiff in this case with respect to the alleged acts or omissions of defendant Young and his employer, Hamilton.

This action is removable because L. Michael Wicks, Chief of the Civil Division of the United States Attorney's Office for the Eastern District of Michigan, who is the appropriate official of the Department of Justice, has certified that defendants Young and Hamilton, who have been deemed employees of the U.S. Public Health Service, were acting in the scope of such employment at the time of the incident out of which this suit arose. See attached Certificate of Scope of Employment.

This removal is timely because an action may be removed under 28 U.S.C. §2679(d) or 42 U.S.C. §233(c)"...at any time before trial...". Copies of all pleadings served upon the petitioners are attached.

WHEREFORE, petitioners request that the files and pleadings filed in the Genesee County Circuit Court, Action No. 07-86525 be transmitted forthwith by the Clerk of that

Court to the Clerk of the United States District Court for the Eastern District of Michigan, since this action is now pending in this Court.

Respectfully submitted,

STEPHEN J. MURPHY
United States Attorney


ELIZABETH J. LARSEN (P32254)
Assistant U.S. Attorney
211 W. Fort Street, Ste. 2001
Detroit, MI 48226
PHONE: (313) 226.9782

Dated: November 26, 2007

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SHARONDA ROBINSON, as Personal Representative
of the Estate of OMARION HARDY, deceased,

Plaintiff,

CIVIL NO.

-vs-

HON.

DR. LARRY YOUNG; DR. LARRY YOUNG, M.D., P.C.;
HURLEY MEDICAL CENTER; HAMILTON
COMMUNITY HEALTH NETWORK, INC.,
d/b/a HAMILTON FAMILY HEALTH CENTER;
DR. DAVID PYATT and DR. XIAOYING WU,
Jointly and Severally,

Defendants.

CERTIFICATE OF SCOPE OF EMPLOYMENT

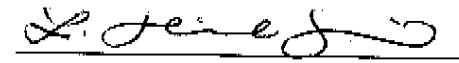
Pursuant to 28 U.S.C. §2679(d), made applicable by the Federally Supported Health Centers Assistance Act of 1992 (Pub.L. 102-501), 42 U.S.C. §233(c), (g)-(n); and by virtue of the authority vested in the United States Attorney for the Eastern District of Michigan by the Attorney General under 28 C.F.R. §15.3, and re-delegated to me by the administrative directive of the United States Attorney, I hereby certify:

1. I have read the complaint in this action, all attachments thereto and information provided by the Department of Health and Human Services.
2. On the basis of the information now available, the defendant Larry Young and Larry Young, M.D., P.C. ("Young") was employed by the defendant Hamilton Community Health Network, Inc., d/b/a Hamilton Family Health Center ("Hamilton"), an entity deemed to be

an employee of the U.S. Public Health Service within the meaning of 42 U.S.C. §233(c) and (g), and was acting within the scope of such employment at the time of the incident on which the complaint is based.

Therefore, defendants Young and Hamilton, have been deemed eligible for Federal Tort Claims Act coverage pursuant to the Federally Supported Health Centers Assistance Act of 1992 (Pub. L. 102-501), 42 U.S.C. §233(g)-(n).

STEPHEN J. MURPHY
United States Attorney


L. MICHAEL WICKS
Chief, Civil Division
Office of the U.S. Attorney
Eastern District of Michigan

Dated: November 26, 2007

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

CAO

STATE OF MICHIGAN

GENESEE JUDICIAL DISTRICT
JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS AND COMPLAINT

CASE NO.

07-80525
RICHARD B. YUILLE
P-22664

Court address

900 S. Michigan, Flint, Michigan

Court telephone no.

Plaintiff name(s), address(es) and telephone no(s).

Sharonda Robinson, as Personal Representative of the
Estate of Omarion Hardy, deceased

v

Defendant name(s), address(es), and telephone no(s).

Dr. Larry Young; Dr. Larry Young, M.D., P.C.; Hurley
Medical Center; Hamilton Community Health Network,
Inc., d/b/a Hamilton Family Health Center; Dr. David Pyatt
and Dr. Xiaoying Wu

Plaintiff attorney, bar no., address, and telephone no.

Richard G. Brewer (P31124)
2000 Town Center, Suite 900
Southfield, MI 48075-1100
(248) 355-0300

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan, you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). MCR 2.111(C)
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

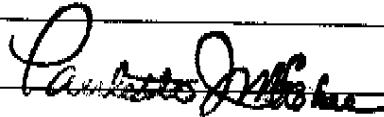
Issued

JUN 20 2007

This summons expires

Court clerk

SEP 19 2007



*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are: _____

| | | |
|------------|-------|---------|
| Docket no. | Judge | Bar no. |
|------------|-------|---------|

General Civil Cases

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are: _____

| | | |
|------------|-------|---------|
| Docket no. | Judge | Bar no. |
|------------|-------|---------|

VENUE

Plaintiff(s) residence (include city, township, or village)

Genesee County

Place where action arose or business conducted

Genesee County, Michigan

Defendant(s) residence (include city, township, or village)

Genesee County

Signature of attorney/plaintiff RICHARD G. BREWER

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.

MC 01 (3/06) SUMMONS AND COMPLAINT

MCR 2.102(B)(11), MCR 2.104, MCR 2.105, MCR 2.107, MCR 2.113(C)(2)(a),(b), MCR 3.205(A)

PROOF OF SERVICE**SUMMONS AND COMPLAINT**

Case No.

PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE **OFFICER CERTIFICATE****OR** **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

I served personally a copy of the summons and complaint,
 I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with

List all documents served with the Summons and Complaint

on the defendant(s):

| | | |
|------------------|---------------------------------|-----------------|
| Defendant's name | Complete address(es) of service | Day, date, time |
| | | |
| | | |

I have personally attempted to serve the summons and complaint, together with any attachments on the following defendant(s) and have been unable to complete service.

| | | |
|------------------|---------------------------------|-----------------|
| Defendant's name | Complete address(es) of service | Day, date, time |
| | | |
| | | |

| | | | |
|-------------|----------------|-------------|-----------|
| Service fee | Miles traveled | Mileage fee | Total fee |
| \$ | | \$ | \$ |

Signature

Title

Subscribed and sworn to before me on _____, _____ County, Michigan.
 Date _____

My commission expires: _____ Signature: _____
 Date _____ Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with

Attachments

on _____ Day, date, time _____
 on behalf of _____
 Signature _____

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

SHARONDA ROBINSON, as Personal
Representative of the Estate of OMARION
HARDY, deceased,

Plaintiff,

vs.

LARRY YOUNG, M.D.; LARRY YOUNG,
M.D., P.C.; HAMILTON COMMUNITY HEALTH
NETWORK, INC., d/b/a HAMILTON FAMILY
HEALTH CENTER; HURLEY MEDICAL CENTER;
DR. XIAOYING WU; and DR. DAVID PYATT,
jointly and severally,

Case No:
Judge

JAY - 88525
RICHARD B. YVILLE
P-22664

Defendants.

RICHARD G. BREWER (P31124)
Attorney for Plaintiff
Sommers Schwartz, P.C.
2000 Town Center, Suite 900
Southfield, Michigan 48075-1100
(248) 355-0300

There is no other pending or resolved civil action out of the transaction or occurrence alleged in the Complaint.

COMPLAINT AND DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff, Sharonda Robinson, as Personal Representative of the Estate of Omarion Hardy, deceased, by and through her attorneys, SOMMERS SCHWARTZ, P.C., and complains against the above-captioned Defendants, states as follows:

VENUE AND JURISDICTION

1. That at all times pertinent hereto your Plaintiff is a resident of 602 West Hamilton, City of Flint, County of Genesee, State of Michigan.

A TRUE COPY
Michael J. Carr, Clerk

2. That at all times pertinent hereto, your Plaintiff, Sharonda Robinson, was and is the duly appointed personal representative of the Estate of Omariion Hardy, deceased.

3. That at all times pertinent hereto Defendant, Dr. Larry Young, M.D., was a medical doctor specializing in obstetrics and gynecology and authorized to and practicing medicine at 3535 Beecher Road, Suite A, in the City of Flint, County of Genesee, State of Michigan.

4. That at all times pertinent hereto Defendant, Dr. Larry Young, was an agent, servant and/or employee of Dr. Larry Young, M.D., P.C. and/or Hamilton Family Health Center.

5. That at all times pertinent hereto Defendant, Dr. Larry Young, M.D., P.C., was a Michigan professional corporation authorized to do and doing business at 3535 Beecher Road, Suite A, City of Flint, County of Genesee, State of Michigan.

6. That at all times pertinent hereto Defendant, Hamilton Community Health Network, Inc., d/b/a Hamilton Family Health Center, was a Michigan medical facility authorized to and practicing medicine at 4001 North Saginaw, in the City of Flint, County of Genesee, State of Michigan and was at all times pertinent hereto was the employer or principle and/or ostensible principle of Dr. Larry Young, M.D.

7. That at all times pertinent hereto Defendant, Hurley Medical Center, is a publicly owned, non-profit teaching hospital authorized to do and doing business under the laws of the State of Michigan and having a health care facility located at One Hurley Plaza, in the City of Flint, County of Genesee, State of Michigan and was at all times hereto, the principle employer and/or ostensible principle of Defendants, Dr. Xiaoying Wu and/or Dr. David Pyatt as well as other physicians involved in the care and treatment of Plaintiff's decedent.

8. That at all times pertinent hereto Defendant, Dr. Xiaoying Wu, and/or other physicians in the employ of Defendant, Hurley Medical Center, were agents, servants and/or employees of Defendant, Hurley Medical Center, and were licensed medical professionals

practicing the specialty of obstetrics and gynecology at Defendant, Hurley Medical Center, One Hurley Plaza, City of Flint, County of Genesee, State of Michigan.

9. That at all times pertinent hereto Defendant, Dr. David Pyatt, was a duly licensed physician practicing at One Hurley Plaza, City of Flint, County of Genesee, State of Michigan and/or at 1166 North Ballenger Highway, City of Flint, County of Genesee, State of Michigan and at all times pertinent hereto practiced the medical specialty of obstetrics and gynecology.

10. That the incident giving rise to the Complaint as more fully described herein occurred in the County of Genesee, State of Michigan.

11. That the amount in controversy herein exceeds the sum of Twenty-Five Thousand (\$25,000.00) Dollars, exclusive of interest, cost and attorney fees.

12. That all Defendants in this matter have received a Notice of Intent to File a Claim pursuant to MCLA 600.2912 182 or more days prior to the filing of this Complaint.

FACTUAL ALLEGATIONS

13. That in the summer of 2003, Plaintiff's decedent's mother, Onisha Lee Hardy, became pregnant.

14. That Onisha Hardy presented herself to Dr. Larry Young, M.D., an obstetrician – gynecologist, who confirmed that Ms. Hardy was, in fact, pregnant and indicated that her EDC was 2-27-04.

15. That Onisha Hardy continued to treat with Dr. Young for prenatal care.

16. That Dr. Young, at all times pertinent hereto, was board certified in obstetrics and gynecology and was an agent, servant and/or employee of Dr. Larry Young, M.D., P.C. and/or Defendant, Hamilton Family Health Center.

17. That during the course of Ms. Hardy's prenatal care, it was noted that Ms. Hardy's laboratory studies were abnormal and that her protides blood tests were abnormal.

18. That on or about January 6, 2004, Onisha Hardy presented herself to Defendant, Hurley Medical Center.

19. That on or about January 6, 2004, Onisha Hardy's care was assigned by Hurley Medical Center to Dr. David Pyatt and/or Dr. Xiaoying Wu, both of whom were, at all times pertinent hereto, agents, servants, employees and/or ostensible agents of Defendant, Hurley Medical Center, and at all times pertinent hereto, were board certified and practicing the specialty of obstetrics and gynecology.

20. That on presentation on January 6, 2004, Onisha Hardy's fetus was alive and kicking and was, at all times pertinent, viable.

21. That Ms. Hardy believed herself to be in labor on January 6, 2004 and was experiencing contractions occurring between 2 and 8 minutes apart.

22. That doctors, who were agents, servants and/or employees of Hurley Medical Center, including but not limited to, Dr. David Pyatt and Dr. Xiaoying Wu, prescribed a Brethine tocolytic therapy to stop the labor.

23. That Brethine, as prescribed, was not prescribed appropriately and that the dosage was incorrect and the term of administration was improper.

24. That, Drs. Pyatt, Wu and others in the employ of Hurley Medical Center, did confer with Defendant, Dr. Young, and with Dr. Young's approval, Onisha Hardy was discharged from the hospital with instructions to follow up with Dr. Young the following day.

25. That the discharge was made despite the fact that Onisha Hardy had abnormal liver enzymes, her pro-time levels were elevated, the D-dimer levels were elevated and she was complaining of abdominal pain.

26. That at the time of discharge, fetal monitoring strips showed fetal tachycardia and decelerations.

27. That prior to discharge, Onisha Hardy's laboratory chemistries demonstrated a coagulation anomaly.

28. That the following morning, January 7, 2004, Onisha Hardy called agents, servants and/or employees of Defendant, Hurley Medical Center, and advised them that she still felt that she was in labor and that although the baby was still moving, she felt that the baby's movements had decreased and that she felt that she needed to be readmitted to the hospital.

29. That agents, servants and/or employees of Hurley Medical Center advised Onisha Hardy not to come to the hospital but to rather keep her appointment later that day with Defendant, Dr. Young.

30. That Onisha Hardy did, in fact, present herself to Dr. Young as scheduled.

31. That at that time, Onisha Hardy's fetus was still moving and viable but the heart rate was depressed.

32. That Defendant, Dr. Young, sent Onisha Hardy to Hurley Medical Center for purposes of undergoing an ultrasound.

33. That on January 7, 2004, sometime slightly after noon, Onisha Hardy presented herself to Hurley Medical Center as directed by Defendant, Dr. Young.

34. That at that time, Onisha Hardy's care was assigned to agents, servants and/or employees of Hurley Medical Center and she was also cared for Dr. Young.

35. That the ultrasound that was performed on that date showed a normal fetal anatomy at the fetal age of 32 weeks.

36. That while at Hurley Medical Center, fetal movement stopped and on January 8, 2004, the baby, Omarion Hardy, was delivered still born.

37. That placental pathology suggested possible placental abruption.

38. That Defendants, individually and collectively, were guilty of professional negligence and/or medical malpractice in the care and treatment of Onisha Hardy and Plaintiff's decedent and their individual and collective acts of negligence did cause and/or contribute to Plaintiff's decedent's otherwise unnecessary and untimely demise.

WHEREFORE, your Plaintiff prays for judgment in her favor and against Defendant in whatever amount to which she is found entitled in excess of Twenty-Five Thousand (\$25,000.00) Dollars, exclusive of interest, cost and attorney fees as well as interest, cost and attorney fees that he has been so wrongfully forced to incur.

NEGLIGENCE AND/OR MALPRACTICE

39. Plaintiff repeats and realleges the allegations contained in paragraphs 1-38 as if the same were set forth herein, word for word, line by line, paragraph by paragraph.

40. That in the year 2003, Dr. Larry Young accepted Onisha Hardy as a patient and did further agree to render appropriate and proper medical care to her as well as to her unborn infant as conditions warranted.

41. That at all times pertinent hereto, Dr. Larry Young, M.D. was engaged in and held himself out to the public as a specialist in the field of obstetrics and gynecology and therefore, pursuant to MCL 600.2912(a), owed a duty to Onisha Hardy and her unborn fetus to practice the art of obstetrics and gynecology in light of the state of the art existing at the time of the alleged malpractice and to conform his treatment to recognized standards of care or practice within the specialty of obstetrics and gynecology.

42. That on January 6, 2004, the actions that the standard of practice required and that should have been taken include the following:

- a. All Defendants rendering care to Onisha Hardy should have recognized that Onisha Hardy was presenting with developing placental abruption and

coagulation abnormality, and further that the fetus was in significant distress requiring emergency intervention;

- b. All Defendants should have admitted Onisha Hardy to the hospital;
- c. All Defendants should have ordered a non-stress test and/or biophysical profile;
- d. All Defendants should have ordered an immediate ultrasound;
- e. All Defendants should have ordered additional prolonged fetal testing and obtained the information that would have been available from these tests;
- f. All Defendants should have ordered an emergency cesarian section.

43. That on January 7, 2004, the actions that the standard of practice required and that should have been taken include the same acts as enumerated above in 42 a-f, all of which could have been accomplished prior to Plaintiff's decedent's demise.

44. That notwithstanding the duties owed to Onisha Hardy and her unborn child, Plaintiff's decedent, Defendant, Dr. Young, did not exercise that degree of learning, skill, knowledge and diligence required of him and was guilty of professional negligence and/or malpractice by violating that standard of care or practice and did, in fact, violate the standard of care or practice by committing acts or omissions which include but are not limited to the following:

- a. By failing on January 6, 2004 to recognize that Onisha Hardy was suffering a possible abruption of the placenta, and further, failing to recognize that the fetus, Plaintiff's decedent, was in distress and further, that Onisha Hardy was suffering a coagulation anomaly;
- b. By failing to require that Onisha Hardy be admitted to the hospital;
- c. By failing to order a non-stress test or biophysical profile;
- d. By failing to properly prescribe tocolytic therapy;
- e. By failing to properly monitor Plaintiff's decedent in utero;
- f. By failing to obtain an immediate and timely ultrasound;
- g. By failing to recognize that Plaintiff's decedent was suffering fetal distress;

h. By failing to perform an urgent cesarian section and deliver the baby before the onset of fetal demise.

45. That on or about January 7, 2004, Defendant, Dr. Young, deviated from the applicable standard of care or practice by committing acts or omissions which include, but are not limited to the following:

- a. By failing to recognize the significance of Onisha Hardy's complaints;
- b. By failing to advise Ms. Hardy to present herself immediately to the hospital on an emergent basis;
- c. By failing to obtain an immediate ultrasound;
- d. By failing to obtain an immediate non-stress test and/or biophysical profile;
- e. By failing to appreciate the significance of Plaintiff's decedent's fetal distress;
- f. By failing to perform an emergent cesarian section.

46. That at all times pertinent hereto, Defendants, Dr. Pyatt and Wu, and/or other physicians who were agents, servants and/or employees of Defendant, Hurley Medical Center, were engaged in and held themselves out to the public as specialists in the field of obstetrics and gynecology and therefore, pursuant to MCL 600.2912(a), owed a duty to Onisha Hardy and Plaintiff's decedent to practice their art in light of the state of the art existing at the time and to conform their treatment to the recognized standard of care or practice within the specialty of obstetrics and gynecology.

47. That notwithstanding the duties owed to Onisha Hardy and Plaintiff's decedent, Defendants, Dr. Pyatt, Dr. Wu and others in the employ or service of Defendant, Hurley Medical Center, failed to exercise that degree of learning, skill, judgment and diligence required of them and were guilty of professional negligence and/or malpractice and in violation of their duties, committed acts or omissions which constitute professional negligence and/or malpractice including, but not limited to the following:

- a. By failing on January 6, 2004 to recognize that Onisha Hardy was suffering a possible abruption of the placenta, and further, failing to recognize that the fetus, Plaintiff's decedent, was in distress and further, that Onisha Hardy was suffering a coagulation anomaly;
- b. By failing to require that Onisha Hardy be admitted to the hospital;
- c. By failing to order a non-stress test or biophysical profile;
- d. By failing to properly prescribe to tocolytic therapy;
- e. By failing to properly monitor Plaintiff's decedent in utero;
- f. By failing to obtain an immediate and timely ultrasound;
- g. By failing to recognize that Plaintiff's decedent was suffering fetal distress;
- h. By failing to perform an urgent cesarian section and deliver the baby before the onset of fetal demise.
- i. By failing to recognize the significance of Onisha Hardy's complaints;
- j. By failing to advise Ms. Hardy to present herself immediately to the hospital on an emergent basis;
- k. By failing to obtain an immediate ultrasound;
- l. By failing to obtain an immediate non-stress test and/or biophysical profile;
- m. By failing to appreciate the significance of Plaintiff's decedent's fetal distress;
- n. By failing to perform an emergent cesarian section.

48. That Defendants, Hurley Medical Center, Dr. Larry Young, M.D., P.C. and/or Hamilton Family Health Center, are vicariously liable for the acts and/or omissions of their agents, servants, employees and/or ostensible agents as set forth above.

49. That Defendants, Hurley Medical Center, Dr. Larry Young, M.D., P.C. and/or Hamilton Family Health Center, at all times pertinent hereto, were engaged in and held themselves out to the public as professional corporations which provided medical practitioners to provide medical treatment to the public who might present themselves to their facilities and

further represented that they were providing competent physicians, nurses and employees specializing in the care and treatment of individuals who came to them for medical treatment.

50. That notwithstanding their duties and obligations as aforesaid, Defendants, Hurley Medical Center, Dr. Larry Young, M.D., P.C. and/or Hamilton Family Health Center, failed to provide Onisha Hardy and/or Plaintiff's decedent with competent doctors, nurses and other personnel and failed to fully and completely attend to Plaintiff's decedent and were thereby guilty of negligence and malpractice and committed acts or omissions which include but are not limited to the following:

- a. By failing to provide Plaintiff's decedent with the care and treatment customarily and ordinarily administered by physicians practicing the specialty of obstetrics and gynecology;
- b. By failing to have in its employ nurses, doctors and other persons who were fit, skilled and competent;
- c. By failing to maintain a staff of qualified responsible persons of suitable ability to provide proper care and adequate medical care for Plaintiff's decedent;
- d. By failing to staff the hospital and/or clinic with an appropriate number of trained personnel;
- e. By failing to adequately direct, supervise, monitor and control its staff members and staff physicians and/or its agents, servants, employees and/or ostensible agents;
- f. By failing to establish rules, regulations or guidelines for its physicians which sets forth with particularity and clarity of what should be done when symptoms such as those presented by Onisha Hardy became apparent;
- g. By failing to establish rules, regulations or guidelines for its physicians which sets forth with particularity and clarity of what should be done when fetal distress was noted in a patient presented to them for care;
- h. By failing to establish rules, regulations or guidelines for determining when certain testing should be undertaken;
- i. By having employees, agents, servants and/or ostensible agents who committed those acts of professional negligence discussed in the paragraphs above;
- j. By committing other acts or professional negligence and/or malpractice.

51. That as a direct and proximate result of the acts or omissions of the Defendants as set forth above, it would become apparent to the healthcare professionals rendering care and treatment to Onisha Hardy on January 6, 2004 and January 7, 2004 that Onisha Hardy needed to be hospitalized, needed an ultrasound, needed a non-stress test or biophysical profile and that Plaintiff's decedent needed an emergent cesarian section delivery.

52. That as a direct and proximate result of the acts or omissions of the Defendants as set forth above, Omarion Hardy was allowed to remain in utero while in significant fetal distress and more likely than not, as a consequence of a developing placental abruption.

53. That as a direct and proximate result of the acts or omissions of the Defendants as set forth above, an emergency cesarian section was not performed, fetal distress was allowed to continue, all of which resulted in the death of Omarion Hardy in utero.

54. That as a direct and proximate result of the acts or omissions of the Defendants as set forth above, Omarion Hardy was allowed to receive insufficient oxygen and nutrients due to placental defect and/or coagulation anomaly, including but not limited to a possible developing placental abruption which caused Omarion Hardy to suffer anoxic and metabolic injury to the brain and other vital systems resulting in his death in utero.

55. That as a direct and proximate result of the acts or omissions of the Defendants as set forth above, Omarion Hardy was allowed to remain in utero while in significant fetal distress, fetal distress which an emergent cesarian section would have alleviated and therefore prevented his death.

56. That as a direct and proximate result of the acts or omissions of the Defendants as set forth above, timely intervention by emergency cesarian section delivery was not performed and as a consequence, Omarion Hardy was allowed to die in utero.

WHEREFORE, your Plaintiff prays for judgment in her favor and against Defendant in whatever amount to which she is found entitled in excess of Twenty-Five Thousand

(\$25,000.00) Dollars, exclusive of interest, cost and attorney fees as well as interest, cost and attorney fees that he has been so wrongfully forced to incur.

DAMAGES

57. Plaintiff repeats and realleges the allegations contained in paragraphs 1-55 as if the same were set forth herein, word by word, line by line, paragraph by paragraph.

58. That as a direct and proximate result of the collective acts of negligence and malpractice as described above, your Plaintiff's decedent, Omarion Hardy, suffered severe, permanent and progressive injuries including, but not limited to, death.

59. That as a direct and proximate result of the collective acts of negligence and malpractice as described above, Plaintiff's decedent did suffer extreme pain, suffering and discomfort up to and until the time of his demise.

60. That Plaintiff, as personal representative of the Estate of Omarion Hardy, is entitled to all damages for the wrongful death of Plaintiff's decedent, including but not limited to reasonable medical, hospital, funeral and burial expenses pursuant to the statutes of the State of Michigan and in particular, MCL 600.2922 and any amendments thereto.

61. That Plaintiff's decedent is survived by the following individuals:

- a. Mother, Onisha Hardy
- b. Grandmother, Sharonda Robinson
- c. Siblings

62. That as a direct and proximate result of the collective acts of negligence and malpractice as described above, members of Plaintiff's decedent's family have suffered a loss of society and companionship, financial support and comfort as a result of Plaintiff's decedent's demise.

63. That as a direct and proximate result of the collective acts of negligence and malpractice as described above, Plaintiff's decedent has suffered a loss of future earning capacity and his family has suffered a loss of future support.

WHEREFORE, your Plaintiff respectfully prays that this Court grant her a judgment in her favor and against the Defendants, jointly and severally, in an amount in excess of Twenty Five Thousand and 00/100 Dollars (\$25,000.00), to which the trier of fact finds she is entitled to, exclusive of interest, costs and attorneys fees as well as interest, costs and attorney fees she has so wrongfully forced to incur.

DEMAND FOR JURY IS HEREBY MADE.

SOMMERS SCHWARTZ, P.C.

By: 

RICHARD G. BREWER (P31124)
Attorney for Plaintiff
2000 Town Center, Suite 900
Southfield, Michigan 48075-1100
(248) 355-0300

Dated: June 20, 2007

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHARONDA ROBINSON, as Personal Representative
of the Estate of OMARION HARDY, deceased,

Plaintiff,

-vs-

Case: 2:07-cv-14999
Judge: Battani, Marianne O
Referral MJ: Morgan, Virginia M
Filed: 11-26-2007 At 04:38 PM
REM ROBINSON V YOUNG (RRH)

DR. LARRY YOUNG; DR. LARRY YOUNG, M.D., P.C.;
HURLEY MEDICAL CENTER; HAMILTON
COMMUNITY HEALTH NETWORK, INC.,
d/b/a HAMILTON FAMILY HEALTH CENTER;
DR. DAVID PYATT and DR. XIAOYING WU,
Jointly and Severally,

Defendants.

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **Notice Of Removal, Notice Of Filing**
Notice Of Removal, and Certificate of Scope Of Employment has this 21st day of November,
2007, been made upon the following by placing same in a post-paid envelope, and depositing
said envelope in a United States mail addressed to:

CLERK OF THE COURT
Genesee County Circuit Court
900 S. Saginaw Street, Ste. 3W
Flint, MI 48502-1517

RICHARD G. BREWER
2000 Town Center, Ste. 900
Southfield, MI 48075-1100

Pat Reinhold, Legal Assistant
Office of the United States Attorney

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHARONDA ROBINSON, as Personal Representative
of the Estate of OMARION HARDY, deceased,

Plaintiff,
-vs-

DR. LARRY YOUNG; DR. LARRY YOUNG, M.D., P.C.;
HURLEY MEDICAL CENTER; HAMILTON
COMMUNITY HEALTH NETWORK, INC.,
d/b/a HAMILTON FAMILY HEALTH CENTER;
DR. DAVID PYATT and DR. XIAOYING WU,
Jointly and Severally,

Defendants.

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RICHARD G. BREWER
2000 Town Center, Ste. 900
Southfield, MI 48075-1100

ROBERT ROTH, ESQ.
3883 Telegraph Road
Bloomfield Hills, MI 48302

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHARONDA ROBINSON, as Personal Representative
of the Estate of OMARION HARDY, deceased,

Plaintiff,

-vs-

Case: 2:07-cv-14999
Judge: Battani, Marianne O
Referral MJ: Morgan, Virginia M
Filed: 11-26-2007 At 04:38 PM
REM ROBINSON V YOUNG (RRH)

DR. LARRY YOUNG; DR. LARRY YOUNG, M.D., P.C.;
HURLEY MEDICAL CENTER; HAMILTON
COMMUNITY HEALTH NETWORK, INC.,
d/b/a HAMILTON FAMILY HEALTH CENTER;
DR. DAVID PYATT and DR. XIAOYING WU,
Jointly and Severally,

Defendants.

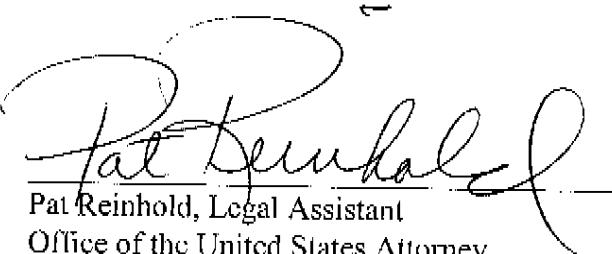
CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **Notice Of Removal, Notice Of Filing**
Notice Of Removal, and Certificate of Scope Of Employment has this 26th day of November,
2007, been made upon the following by placing same in a post-paid envelope, and depositing
said envelope in a United States mail addressed to:

CLERK OF THE COURT
Genesee County Circuit Court
900 S. Saginaw Street, Ste. 3W
Flint, MI 48502-1517

RICHARD G. BREWER
2000 Town Center, Ste. 900
Southfield, MI 48075-1100

ROBERT ROTH, ESQ.
3883 Telegraph Road
Bloomfield Hills, MI 48302


Pat Reinhold, Legal Assistant
Office of the United States Attorney

CIVIL COVER SHEET

COUNTY IN WHICH THIS ACTION AROSE: GENESEE

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

SHARONDA ROBINSON, as Personal Representative
of the Estate of OMARION HARDY, deceased,

(b) County of Residence of First Listed: GENESEE

DEFENDANTS

DR. LARRY YOUNG: DR. LARRY YOUNG, M.D., P.C.
HAMILTON COMMUNITY HEALTH NETWORK, INC.,
d/b/a HAMILTON FAMILY HEALTH CENTER, et al.

County of Residence of First Listed GENESEENOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorneys (Name, Address and Telephone Number)

RICHARD G. BREWER, ESQ.
2000 Town Center, Ste. 900
Southfield, MI 48075-1100

Attorneys (If Known)

ELIZABETH J. LARIN, AUSA
211 W. Fort Street, Ste. 2001
Detroit, MI 48226

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff
 2 U.S. Government Defendant
 3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only))

Citi Case: 2:07-cv-14999
Judge: Battani, Marianne O
Referral MJ: Morgan, Virginia M
Filed: 11-26-2007 At 08:58 AM
REM ROBINSON V YOUNG ET AL (RRH)

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 161 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Reckless Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> REAL PROPERTY | <input type="checkbox"/> CIVIL RIGHTS | <input type="checkbox"/> PRISONER PETITIONS | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 28 USC 7609 |
| | | | <input type="checkbox"/> FEDERAL TAX SUITS | |
| | | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | |
| | | | <input type="checkbox"/> 871 IRS—Third Party 28 USC 7609 | |

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court

4 Reinstated or Reopened
 5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.)

Do not cite jurisdictional statutes unless diversity.) 42 U.S.C. §233 and 28 U.S.C. §2679(d)
Federally Supported Health Centers Assistance Act - medical malpractice.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

\$ DEMAND

CHECK YES only if demanded in complaint:

JURY DEMAND:

Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY-OF-RECORD

X



PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes:
